

REQUEST FOR CONTINUED EXAMINATION UNDER 37 CFR § 1.114  
Serial No. 10/567,230

**REMARKS**

Claims 1-14 and 16-21 are pending in the present application. By this Amendment, previously presented claim 21 has been amended. Applicants respectfully request reconsideration of the present claims in view of the following remarks.

Support for the amendment to previously presented claim 21 may be found in at least the following locations of Applicants' original specification: page 8, lines 14-30.

I. Formal Matters:

Request for Telephone Interview

Applicants request a telephone interview to discuss the present claims prior to the next office action. Applicants would like to opportunity to discuss the present claims, as well as possible evidence that may be submitted in the present case to further support patentability of the present claims.

Allowable Subject Matter

Applicants again note with appreciation that previously presented claims 7-8 and 11 contain allowable subject matter. Applicants further note that previously presented claim 8 was previously rewritten in independent form including all of the limitations of base claim 1 and intervening claims 3 and 4 in Applicants' August 13, 2009 Amendment and Response. Consequently, Applicants believe independent claim 8 and claim 11, which depends from independent claim 8, are now in condition for allowance. For this reason, Applicants respectfully request an indication that claims 8 and 11 are allowed.

As noted in the December 17, 2009 final Office Action and the March 17, 2010 Advisory Action, claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

II. Prior Art Rejections:

Rejection of Previously Presented Claims 1-5, 9-10, 12 and 16 Under 35 U.S.C. §102(b)  
In View Of European Patent Application Publication No. 1 023 832 A1 (Aven)

Previously presented claims 1-5, 9-10, 12 and 16 stand rejected under 35 U.S.C.

REQUEST FOR CONTINUED EXAMINATION UNDER 37 CFR § 1.114  
Serial No. 10/567,230

§102(b) as being anticipated by European Patent Application Publication No. 1 023 832 A1 to Aven (hereinafter, “Aven”). This rejection is respectfully traversed for the reasons given in Applicants’ August 13, 2009 Amendment and Response, and the reasons provided in Applicants’ February 17, 2010 Request for Reconsideration.

The December 17, 2009 final Office Action maintains the position that the alkylpolyglycosides (APGs) disclosed in Aven are “oil-based adjuvants” as recited in Applicants’ claimed agrochemical concentrate. Applicants disagree, and maintain the position that the APGs disclosed in Aven are water-soluble APGs, not adjuvants that are substantially insoluble in an aqueous phase, namely, oil-based adjuvants.

As discussed in Applicants’ August 13, 2009 Amendment and Response, the alkyl chain length of a given APG does not determine whether the given APG is water-soluble or water-insoluble. In order to determine whether a given APG is water-soluble or water-insoluble, the alkyl chain length and the degree of polymerization must be considered for the APG.

The only disclosure of Aven with regard to the degree of polymerization of the disclosed APGs is on page 5, lines 24-25, wherein Aven discloses:

Most preferred are C8-10 and C12-14 alkylpolyglycosides having a degree of polymerization of 1.3 to 1.6, in particular 1.4 or 1.5.

These APGs (i.e., disclosed on page 5, lines 24-25) are water-soluble APGs. Further, when viewed in combination with the entire disclosure of Aven, it is clear that the disclosure of Aven is directed to water-soluble APGs, not water-insoluble APGs. See, for example, paragraphs [0003] and [0009] of Aven, which disclose that the disclosed adjuvants (e.g., the disclosed water-soluble APGs) may be added directly to a spray tank (of water). One skilled in the art would not add a water-insoluble adjuvant directly into a spray tank of water.

For at least the reasons provided above, the disclosure of Aven fails to anticipate Applicants’ claimed invention as embodied in claims 1-5, 9-10, 12 and 16. Accordingly, withdrawal of this rejection is respectfully requested.

Rejection of Previously Presented Claims 6, 13-14 and 17-21 Under 35 U.S.C. §103(a) In View of Aven

Previously presented claims 6, 13-14 and 17-21 stand rejected under 35 U.S.C.

REQUEST FOR CONTINUED EXAMINATION UNDER 37 CFR § 1.114  
Serial No. 10/567,230

§103(a) as being unpatentable in view of Aven. This rejection is respectfully traversed for (i) at least the reasons presented in Applicants' May 12, 2008 Amendment and Response, (ii) Applicants' August 13, 2009 Amendment and Response, and (iii) the reasons provided in Applicants' February 17, 2010 Request for Reconsideration.

As previously discussed, the teaching of Aven fails to disclose, teach or suggest an agrochemical concentrate comprising a continuous water-containing single phase comprising an oil-based adjuvant and a hydrotrope capable of solubilising the adjuvant in the continuous water-containing single phase as recited in independent claim 1. For similar reasons, the teaching of Aven fails to disclose, teach or suggest an agrochemical concentrate comprising a continuous aqueous phase comprising (i) water, (ii) an oil-based adjuvant comprising at least one liquid adjuvant that is substantially insoluble in the water, (iii) a hydrotrope comprising at least one water soluble, amphiphilic substance that does not form micelles when present alone in water at concentrations below 50% by weight, the hydrotrope being capable of solubilising the oil-based adjuvant in the water, (iv) an agrochemical, and (v) one or more dispersants within the continuous aqueous phase, wherein the continuous aqueous phase appears as a single phase when viewed via an unaided eye as recited in independent claim 21. As discussed above, the teaching of Aven fails to disclose, teach or suggest to one skilled in the art to utilize an oil-based adjuvant in combination with a hydrotrope capable of solubilising the adjuvant in a continuous water-containing single phase.

Applicants respectfully submit that the teaching of Aven clearly guides one skilled in the art to utilize water-soluble adjuvants in the disclosed suspension concentrates of Aven. A thorough review of the disclosed adjuvants (b) in teaching of Aven clearly suggests to one skilled in the art to use a water-soluble adjuvant. Even when discussing suitable APGs in paragraph [0031], the teaching of Aven clearly guide one skilled in the art to select a water-soluble APG.

For at least the reasons given above, Applicants respectfully submit that the teaching of Aven fails to make obvious Applicants' claimed invention as embodied in independent claims 1 and 21. Since claims 6, 13-14 and 17-20 depend from independent claim 1, and recite addition claim features, the teaching of Aven also fails to make obvious Applicants' claimed invention as embodied in claims 6, 13-14 and 17-20. Accordingly, withdrawal of this

REQUEST FOR CONTINUED EXAMINATION UNDER 37 CFR § 1.114  
Serial No. 10/567,230

rejection is respectfully requested.

Rejection of Previously Presented Claims 1-6, 9-10, 12-14 and 16-21 Under 35 U.S.C.  
§103(a) In View of Aven

Previously presented claims 1-6, 9-10, 12-14 and 16-21 stand rejected under 35 U.S.C. §103(a) as being unpatentable in view of Aven. This rejection is respectfully traversed for (i) at least the reasons presented in Applicants' May 12, 2008 Amendment and Response, (ii) at least the reasons presented in Applicants' August 13, 2009 Amendment and Response, and (iii) the reasons provided in Applicants' February 17, 2010 Request for Reconsideration.

For at least the reasons provided, the teaching of Aven fails to make obvious Applicants' claimed invention as embodied in independent claims 1 and 21. Since claims 2-6, 9-10, 12-14 and 16-20 depend from independent claim 1, and recite addition claim features, the teaching of Aven also fails to make obvious Applicants' claimed invention as embodied in claims 2-6, 9-10, 12-14 and 16-20. Accordingly, withdrawal of this rejection is respectfully requested.

III. Conclusion:

For at least the reasons given above, Applicants submit that claims 1-6, 9-10, 12-14 and 16-21 define patentable subject matter. Accordingly, Applicants respectfully request allowance of these claims.

Should Examiner Pryor believe that further action is necessary to place the application in better condition for allowance, Examiner Pryor is respectfully requested to contact Applicants' representative at the telephone number listed below.

REQUEST FOR CONTINUED EXAMINATION UNDER 37 CFR § 1.114  
Serial No. 10/567,230

No additional fees are believed due; however, the Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, to Deposit Account No. 503025.

Respectfully submitted,  
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